

AMENDED IN SENATE JUNE 29, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1918

Introduced by Assembly Member Davis

February 16, 2010

An act to amend Sections 8281, 8283, 8284, and 8285 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1918, as amended, Davis. Public utilities: procurement: minority-, women-, disabled veteran-owned business enterprises.

~~Under~~

(1) *Under* existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical, gas, water, and telephone corporations. Existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature.

Existing law directs the commission to require every electrical, gas, water, and telephone corporation with annual gross revenues exceeding \$25,000,000, and their regulated subsidiaries and affiliates, to implement a program developed by the commission to encourage, recruit, and utilize minority-, women-, and disabled veteran-owned business enterprises, as defined, in the procurement of contracts from those corporations or from their regulated subsidiaries and affiliates, and to require the reporting of certain information. The commission, by rulemaking, has adopted General Order 156, applicable to certain

electrical, gas, and telephone corporations, to effectuate these requirements.

This bill would extend the minority-, women-, and disabled veteran-owned business enterprises procurement requirements to wireless telecommunications service providers with gross annual revenues of more than \$25,000,000 and would encourage each electrical, gas, water, wireless telecommunications service provider, and telephone corporation that is not required to submit a plan to voluntarily adopt a plan for increasing women, minority, and disabled veteran business enterprise procurement in all categories.

(2) Existing law requires the commission to recommend a program and legislation for carrying out the policy of aiding the interests of women, minority, and disabled veteran business enterprises in order to preserve specified objectives.

This bill would require the commission, in regards to disabled veteran business enterprises, to ensure that those recommended programs and legislation are consistent with the disabled veteran business enterprise certification eligibility requirements imposed by the Department of General Services and that the recommendations include only those disabled veteran business enterprises certified by the Department of General Services.

(3) Existing law requires the commission, by rule or order, to adopt criteria for verifying and determining eligibility of women, minority, and disabled veteran business enterprises for procurement contracts.

This bill would instead require the commission to adopt the Department of General Services' disabled veteran business enterprise certification eligibility requirements for verifying and determining eligibility of disabled veteran business enterprises for procurement contracts and would prohibit the commission from deeming eligible those disabled veteran business enterprises that are not certified by the Department of General Services.

(4) Existing law requires any person or corporation that falsely represents a business as a women, minority, or disabled veteran business enterprise in the procurement of, or the attempt to procure, contracts from certain electrical, gas, water, or telephone corporations to receive a prescribed punishment.

This bill would add wireless telecommunications service providers to that list of corporations and would instead require the punishment for falsely representing a business as a disabled veteran enterprise to conform to penalties imposed pursuant to specified law.

~~Under~~

(5) *Under* existing law, a violation of any rules or orders of the commission is a crime. In addition, any person or corporation who falsely represents a business as a woman, minority, or disabled veteran business enterprise for the purposes of the programs discussed above is subject to criminal penalties.

Because a violation of the requirements of the bill would be a crime under those provisions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8281 of the Public Utilities Code is
2 amended to read:
3 8281. (a) The Legislature hereby finds and declares that the
4 essence of the American economic system of private enterprise is
5 free competition. Only through full and free competition can free
6 markets, reasonable and just prices, free entry into business, and
7 opportunities for the expression and growth of personal initiative
8 and individual judgment be ~~assured~~ *ensured*. The preservation and
9 expansion of that competition ~~is~~ *are* basic to the economic
10 well-being of this state and that well-being cannot be realized
11 unless the actual and potential capacity of women, minority, and
12 disabled veteran business enterprises is encouraged and developed.
13 Therefore, it is the declared policy of the state to aid the interests
14 of women, minority, and disabled veteran business enterprises in
15 order to preserve reasonable and just prices and a free competitive
16 enterprise, to ensure that a fair proportion of the total purchases
17 and contracts or subcontracts for commodities, supplies,
18 technology, property, and services for regulated public utilities are
19 awarded to women, minority, and disabled veteran business
20 enterprises, and to maintain and strengthen the overall economy
21 of the state.

1 (b) (1) The Legislature finds all of the following:

2 (A) The opportunity for full participation in our free enterprise
3 system by women, minority, and disabled veteran business
4 enterprises is essential if this state is to attain social and economic
5 equality for those businesses and improve the functioning of the
6 state economy.

7 (B) Public agencies which have established short- and
8 long-range women, minority, and disabled veteran business
9 enterprise goals are awarding 30 percent or more of their contracts
10 to these business enterprises.

11 (C) Women, minority, and disabled veteran business enterprises
12 have traditionally received less than a proportionate share of
13 regulated public utility procurement contracts.

14 (D) It is in the state's interest to expeditiously improve the
15 economically disadvantaged position of women, minority, and
16 disabled veteran business enterprises.

17 (E) The position of these businesses can be improved by
18 providing long-range substantial goals for procurement by
19 regulated public utilities of technology, equipment, supplies,
20 services, materials, and construction work from women, minority,
21 and disabled veteran businesses.

22 (F) That procurement also benefits the regulated public utilities
23 and consumers of the state by encouraging the expansion of the
24 number of suppliers for procurements, thereby encouraging
25 competition among the suppliers and promoting economic
26 efficiency in the process.

27 (2) It is the purpose of this article to do all of the following:

28 (A) Encourage greater economic opportunity for women,
29 minority, and disabled veteran business enterprises.

30 (B) Promote competition among regulated public utility
31 suppliers in order to enhance economic efficiency in the
32 procurement of electrical, gas, water, wireless telecommunications
33 service provider, and telephone corporation contracts and contracts
34 of their commission-regulated subsidiaries and affiliates.

35 (C) Clarify and expand the program for the procurement by
36 regulated public utilities of technology, equipment, supplies,
37 services, materials, and construction work from women, minority,
38 and disabled veteran business enterprises.

39 SEC. 2. Section 8283 of the Public Utilities Code is amended
40 to read:

1 8283. (a) The commission shall require each electrical, gas,
2 water, wireless telecommunications service provider, and telephone
3 corporation with gross annual revenues exceeding twenty-five
4 million dollars (\$25,000,000) and their commission-regulated
5 subsidiaries and affiliates, to submit annually, a detailed and
6 verifiable plan for increasing women, minority, and disabled
7 veteran business enterprise procurement in all categories.

8 (b) These annual plans shall include short- and long-term goals
9 and timetables, but not quotas, and shall include methods for
10 encouraging both prime contractors and grantees to engage women,
11 minority, and disabled veteran business enterprises in subcontracts
12 in all categories which provide subcontracting opportunities.

13 (c) The commission shall establish guidelines for all electrical,
14 gas, water, wireless telecommunications service provider, and
15 telephone corporations with gross annual revenues exceeding
16 twenty-five million dollars (\$25,000,000) and their
17 commission-regulated subsidiaries and affiliates, to be utilized in
18 establishing programs pursuant to this article.

19 (d) Every electrical, gas, water, wireless telecommunications
20 service provider, and telephone corporation with gross annual
21 revenues exceeding twenty-five million dollars (\$25,000,000) shall
22 furnish an annual report to the commission regarding the
23 implementation of programs established pursuant to this article in
24 a form that the commission shall require, and at the time that the
25 commission shall annually designate.

26 (e) (1) The commission shall provide a report to the Legislature
27 on September 1 of each year, on the progress of activities
28 undertaken by each electrical, gas, water, wireless
29 telecommunications service provider, and telephone corporation
30 with gross annual revenues exceeding twenty-five million dollars
31 (\$25,000,000) pursuant to this article in the implementation of
32 women, minority, and disabled veterans business enterprise
33 development programs. The commission shall recommend a
34 program for carrying out the policy declared in this article, together
35 with recommendations for legislation that it deems necessary or
36 desirable to further that policy.

37 (2) *In regards to disabled veteran business enterprises, the*
38 *commission shall ensure that the programs and legislation*
39 *recommended pursuant to paragraph (1) are consistent with the*
40 *disabled veteran business enterprise certification eligibility*

1 *requirements imposed by the Department of General Services and*
2 *that the recommendations include only those disabled veteran*
3 *business enterprises certified by the Department of General*
4 *Services.*

5 (f) The Legislature declares that each electrical, gas, water,
6 wireless telecommunications service provider, and telephone
7 corporation that is not required to submit a plan pursuant to
8 subdivision (a) is encouraged to voluntarily adopt a plan for
9 increasing women, minority, and disabled veteran business
10 enterprise procurement in all categories.

11 SEC. 3. Section 8284 of the Public Utilities Code is amended
12 to read:

13 8284. (a) (1) The commission shall, by rule or order, adopt
14 criteria for verifying and determining the eligibility of ~~women,~~
15 ~~minority, and disabled veteran~~ *women and minority* business
16 enterprises for procurement contracts.

17 (2) *The commission shall adopt the Department of General*
18 *Services' disabled veteran business enterprise certification*
19 *eligibility requirements for verifying and determining the eligibility*
20 *of disabled veteran business enterprises for procurement contracts,*
21 *and shall not deem eligible those disabled veteran business*
22 *enterprises that are not certified by the Department of General*
23 *Services.*

24 (b) The commission shall develop, and require every electrical,
25 gas, water, wireless telecommunications service provider, and
26 telephone corporation with gross annual revenues exceeding
27 twenty-five million dollars (\$25,000,000) and their
28 commission-regulated subsidiaries and affiliates to implement, an
29 outreach program to inform and recruit women, minority, and
30 disabled veteran business enterprises to apply for procurement
31 contracts under this article.

32 SEC. 4. Section 8285 of the Public Utilities Code is amended
33 to read:

34 8285. (a) Any person or corporation, through its directors,
35 officers, or agents, which falsely represents a business as a ~~women,~~
36 ~~minority, or disabled veteran~~ *women or minority* business enterprise
37 in the procurement of, or *the* attempt to procure, contracts from
38 an electrical, gas, water, wireless telecommunications service
39 provider, or telephone corporation with gross annual revenues
40 exceeding twenty-five million dollars (\$25,000,000), or a

1 commission-regulated subsidiary or affiliate subject to this article,
2 shall be punished by a fine of not more than five thousand dollars
3 (\$5,000), by imprisonment in a county jail for not more than one
4 year or in the state prison, or by both that fine and imprisonment.
5 In the case of a corporation, the fine or imprisonment, or both,
6 shall be imposed on every director, officer, or agent responsible
7 for the false statements.

8 *(b) Any person or corporation, through its directors, officers,*
9 *or agents, which falsely represents a business as a disabled veteran*
10 *business enterprise in the procurement of, or attempt to procure,*
11 *contracts from an electrical, gas, water, wireless*
12 *telecommunications service provider, or telephone corporation*
13 *with gross annual revenues exceeding twenty-five million dollars*
14 *(\$25,000,000), or a commission-regulated subsidiary or affiliate*
15 *subject to this article, shall be punished according to the penalties*
16 *established pursuant to subdivision (b) of Section 999.9 of the*
17 *Military and Veterans Code. In the case of a corporation, the fine*
18 *or imprisonment, or both, shall be imposed on every director,*
19 *officer, or agent responsible for the false statements.*

20 SEC. 5. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

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31 CORRECTIONS:

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